

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MACK TRUCKS, INC.,

Case No. 07 CV 3631

JUDGE CROTTY

Plaintiff,

- against -

**FIRST AMENDED ANSWER
AS OF RIGHT**

JOHNNY M., LLC and COMPONENTS BY
JOHN McCOY, INC.,

Defendants.

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The Defendant COMPONENTS BY JOHN McCOY, INC. appearing by
the undersigned, as and for an answer, alleges as follows:

1. Denies and reserves to the court all questions of law
as to paragraphs 1, 2, 7, 8, 9, 10, 12, 13, 21, 23, and
39.
2. Denies knowledge and information sufficient to form or
belief as to paragraphs 3, 6, 11, 14, 15, 16, 17, 18,
20, 22 and 30.
3. Denies upon information and belief the allegations
contained in paragraph 4.
4. Denies the allegations contained in paragraphs 25, 26,
27, 29, 31, 32, 33, 35, 36, 37, 38 and 40.
5. Repeats, reiterates and realleges each and every denial
herein contained as to paragraphs 19, 24, 28 and 34.

**AS AND FOR A SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE THE DEFENDANT COMPONENTS
BY JOHN McCOY, INC. ALLEGES AS FOLLOWS**

5. The agreements referred to herein with regard to this Defendant are not in writing and required to be such by the Statute of Frauds, in particular § 5-701 of the General Obligations Law of the State of New York.

**AS AND FOR A SECOND SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE THE DEFENDANT ALLEGES
AS FOLLOWS**

6. That the claims against this answering Defendant COMPONENTS BY JOHN McCOY, INC. are in violation of the Pennsylvania statutes, and consolidated statutes annotated (Currentness, Title 33, Section 3).

**AS AND FOR A THIRD SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE THE DEFENDANT COMPONENTS BY
JOHN McCOY INC. ALLEGES AS FOLLOWS**

7. The Plaintiff has failed to state a cause of action against this answering Defendant.

By reason of the foregoing, the Defendant COMPONENTS BY JOHN McCOY, INC. demands that this action be dismissed together with the costs and disbursements of the same.

Dated: New York, New York
June 18, 2007

Yours, etc.

NEIL L. FUHRER & ASSOC. LLP
Attorneys for Defendant
Components by John McCoy, Inc.

By S/
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